Division Bench

(3)

CF-1002

IN THE HIGH COURT OF JUDICATURE

AT BILASPUR

Writ Appeal No. 19 Of 2007

(Arising out of Writ Petition (C) No. 6774/2006)

APPELLANT: Rameshwar Sahu S/o Shri Chamru
RESPONDENT NO.1 aged about 35 years , Sarpanch (Removed) Gram Panchayat Chhind, resident of Chhind , Tahsil Sarangarh , District Raigarh (CG).

P.R. No. 2541/07 Mala Dubey
Presented on 9/11/07

VERSUS

RESPONDENTS PETITIONER : 1. Ghanshyam Yadav S/o Shri Sunder Lal Yadav , aged about 26 years , officiating sarpanch of Gram Panchayat Chhind , resident of Village and Post Chhind , Tahsil Sarangarh , District Raigarh (CG).

2. The Collector and Prescribed Officer , Raigarh , District Raigarh (CG).

3. The Sub Divisional Officer/ Prescribed Officer, Sarangarh , District Raigarh (CG).

4. The Returning Officer- Tahsildar , Sarangarh District Raigarh (CG).

APARNA MALVIYA CG 08/01/07

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WRIT APPEAL AGAINST THE IMPUGNED ORDER DATED 5th DECEMBER 2006 PASSED IN WRIT PTITION © NO.

6774/2006 BY THE HON'BLE SINGLE JUDGE SHRI S.K.AGNIHOTRI

(UNDER RULE 157 (10) OF THE HIGH COURT OF CHHATTISGARH RULES, 2005)

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HIGH COURT OF CHHATTISGARH : BILASPUR

Division Bench

Coram : **Hon'ble Shri H.L. Dattu, CJ &**
Hon'ble Shri V.K. Shrivastava, J

WRIT APPEAL NO. 19 OF 2007

APPELLANT Rameshwar Sahu

Versus

RESPONDENTS Ghanshyam Yadav & Others

Present : Shri Amrito Das, counsel for the appellant.
Shri R.S. Patel, counsel for respondent No.1.
None for other respondents.

ORAL ORDER

(Passed on 23rd February, 2007)

The following oral order of the Court was passed by **H.L. Dattu, C.J.**

This appeal is filed against the order passed by learned single Judge in Writ Petition No.6774/2006 dated 05/12/2006. By the impugned order, learned Single Judge has set aside the order passed by the Collector and Prescribed Officer, Raigarh dated 16/11/2006 and also had directed to give effect to resolution passed by Gram Panchayat Chhind, Tahsil Sarangarh, District Raigarh.

2) The facts, in brief, are:

Appellant before us was elected as Sarpanch of Gram Panchayat Chhind, Tahsil Sarangarh, District Raigarh, in the election held on 15/01/2006. The members of the Gram Panchayat had requested the competent authority to convene a meeting to

express their no confidence motion against the Sarpanch. Pursuant to request so made, the competent authority had issued a notice directing the members of the Gram Panchayat to participate in the meeting that would be held on 31/03/2006 to consider the request made by the majority of the members of the Gram Panchayat.

3) The prescribed authority, while issuing the aforesaid notice, had directed one Shri K.S. Mandavi, Tahsildar of Sarangarh to preside over the meeting of no confidence motion that would be held on 31/03/2006.

4) For some reason, the aforesaid officer could not chair the meeting and in his place one Sameer Nag, who had joined the office as Tahsildar on 04/04/2006, presided over the meeting of no confidence on 13/04/2006. In the meeting so held, the majority of the members of the Gram Panchayat had expressed their no confidence against the Sarpanch.

5) Aggrieved by the aforesaid order, the appellant herein had filed an appeal before the Collector, Raigarh, who by his order dated 16/11/2006, had set aside the resolution passed in the meeting held on 13/04/2006. One Ghanshyam Yadav, who is said to be aggrieved by the order passed by the Collector, Raigarh, had approached this Court in Writ Petition No.6774/2006, *inter alia* questioning the correctness or otherwise of the order passed by the Collector.

6) Learned single Judge, after hearing the parties to the *lis* has come to the conclusion that it does not matter who is the officer who has conducted the meeting that was convened to express no confidence motion against Sarpanch of the Gram Panchayat. Further, he has taken into consideration that merely because another officer

who was also competent to conduct the meeting, no prejudice has been caused to the appellant.

7) In our opinion, the thinking, reasoning and the conclusion reached by the learned single Judge cannot be said to be either arbitrary or illegal. In view of that, we do not propose to interfere with the orders passed by the learned single Judge. Therefore, the appeal requires to be rejected and accordingly it is rejected.

8) Ordered accordingly.

Sd/-
Chief Justice

Sd/-
V.K.Shrivastava
Judge